IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

JUDGE'S ORDER NO.150 OF 2005

IN

SUIT NO.1470 OF 2004

Videocon Properties Ltd. & Anr. ...Plaintiffs

Versus

Layer Exports Pvt.Ltd. ...Defendant

.....

Mr.Virag Tulzapurkar i/b DSR Associates for Plaintiffs.

Mr.T.N.Subramaniam for Defendant.

.....

**CORAM: A.M.KHANWILKAR, J.**

**OCTOBER 18, 2005.**

**P.C.**

1. Not on Board. Upon mentioning, taken on Board.

2. Heard Counsel for the parties. The present Judge's Order is for direction to grant leave to Plaintiffs to execute the Consent Decree before drawing and sealing of the Consent Decree as provided under Rule 341 of the High Court (Original

Side) Rules.

3. This Application is resisted by the Counsel for the Defendant on the argument that no sufficient cause has been shown to dispense drawing up and sealing of the decree. Counsel for the Plaintiffs has placed reliance on the decision of our High Court reported in **2003 (1) BCR 299 in the case of United Phosphorous Ltd. vs. A.K.Kanoria**. This decision takes the view that drawing up of a decree is not and cannot be a condition precedent for filing of an execution petition or an application under Order XXI, Rule 41 of the Code of Civil Procedure, 1908.

4. Following this decision, I am inclined to permit the Plaintiffs to execute the Consent Decree dated 4th May 2005 passed in Suit No.1470 of 2004 before drawing and sealing of the Consent Decree. It is made clear that this course is permitted subject to sealing of the decree in due course of time. Ordered accordingly.

A.M.KHANWILKAR, J.